

Notice of Allowability	Application No.	Applicant(s)	
	10/085,885	TICKNOR ET AL.	
	Examiner	Art Unit	
	Kevin S. Wood	2874	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Amendment filed on 27 June 2005.
2. ☒ The allowed claim(s) is/are 4,7,8,11,19,23,26,29,31-36,38,43,44,46-50,52-57,60-64 and 67.
3. ☒ The drawings filed on 27 February 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |


AKM ENAYET ULLAH
PRIMARY EXAMINER

ALLOWANCE / EXAMINER'S AMENDMENT

Response to Amendment

1. This action is responsive to the Amendment filed on 27 June 2005. Claims 4, 7, 8, 11, 19, 23, 26, 29, 36, 38, 43, 44, 46, 49, and 50 have been amended. New claim 67 has been added. Claims 1-3, 5-6, 9-10, 58, 59 and 65-66 have been cancelled.
2. Prior to this amendment claims 1, 5, 6, 9-30, 36-46, 49-51, 58-59, and 65 were withdrawn from examination as non-elected inventions. Previously withdrawn claims 11, 19, 23, 26, 29, 36, 38, 43, 44, 46, 49, and 50 have been amended within this amendment to depend from and include all the limitations of generic claim 4. Therefore claims 11, 19, 23, 26, 29, 36, 38, 43, 44, 46, 49, and 50 are no longer withdrawn from consideration. (See the details in the Elections/Restrictions section of this action)
3. Claims 4, 7-8, 11, 19, 23, 26, 29, 31-36, 38, 43-44, 46-50, 52-57, 60-64, and 67 are pending within the application.

Election/Restrictions

4. Claim 4 is generic and allowable. Accordingly, the restriction requirement as to the encompassed species is hereby withdrawn and claims 11, 19, 23, 26, 29, 36, 38 43, 44, 46, 49, and 50, directed to the species of generic claim 4 are no longer withdrawn from consideration since all of the claims to this species depend from or otherwise include each of the limitations of an allowed generic claim. However, claims 12-18, 20-22, 24, 25, 27, 28, 30, 37, 39-42, 45 and 51, directed to the species of a non-elected claim remain withdrawn from consideration since do not depend upon or otherwise include all the limitations of an allowed generic claim as required by 37 CFR 1.141.

In view of the above noted withdrawal of the restriction requirement as to the linked species, applicant(s) are advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

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5. This application is in condition for allowance except for the presence of claims 12-18, 20-22, 24, 25, 27, 28, 30, 37, 39-42, 45 and 51 to inventions non-elected. Accordingly, claims 12-18, 20-22, 24, 25, 27, 28, 30, 37, 39-42, 45 and 51 have been cancelled.

EXAMINER'S AMENDMENT

6. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Please cancel claims 12-18, 20-22, 24, 25, 27, 28, 30, 37, 39-42, 45 and 51.

Response to Arguments

7. Applicant's arguments, filed 27 June 2005, with respect to claims 4, 7-8, 11, 19, 23, 26, 29, 31-36, 38, 43-44, 46-50, 52-57, 60-64, and 67 have been fully considered and are persuasive. All of the remaining claims have been previously cited as allowable or now depend from claims that are allowable over the prior art.

Allowable Subject Matter

8. Claims 4, 7-8, 11, 19, 23, 26, 29, 31-36, 38, 43-44, 46-50, 52-57, 60-64, and 67 are allowed.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin S. Wood whose telephone number is (571) 272-2364. The examiner can normally be reached on Monday-Thursday (7am - 5:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney B. Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin S. Wood



AKM ENAYET ULLAH
PRIMARY EXAMINER